

MEMO

November 14, 2008

To: Mr. Ralph Velez, Calexico City Manager

From: Mr. John Moreno, City Council Member
Mr. Daniel Romero, City Council Member

RE: Adopted Housing Element Update



Attached please find two letters. One dated October 24, 2008 from the State of California Department of Housing and Community Development and the other from Leibold McClendon & Mann, a Professional Corporation, dated October 22, 2008.

The first letter from the State of California outlines several flaws in our housing element update. The letter also emphasizes that we are out of compliance on a number of issues.

The second letter is a bit more disturbing. It refers to our housing element as a "sham" and accuses us of "fraud" with regard to the California Department of Housing and Community Development.

We are requesting this item be placed on the agenda of the November 18 City Council Meeting. Please provide our board members a detailed explanation as to why the city would submit an application severely defective. We are also requesting staff provide us with a plan to remedy this situation.

Please note that submittal of fraudulent documents to the State of California puts our city at risk of losing Housing monies and court litigation that could put severe strains on city resources.

Please provide each Councilmember a copy of these two letters and this memorandum. Your attention to this matter is greatly appreciated.

STATE OF CALIFORNIA BUSINESS TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT

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ARND SCHWARZENEGGER, Governor



October 24, 2008

Mr. Ralph Velez
City Manager
City of Calexico
608 Heber Avenue
Calexico, CA 92231

Dear Mr. Velez:

RE: Review of the Calexico's Adopted Housing Element

Thank you for submitting the City of Calexico's housing element adopted July 15, 2008 and received for review on July 29, 2008 along with draft revisions sent by e-mail September 24, 2008. Pursuant to Government Code Section 65585(h), the Department is required to review adopted housing elements and report the findings to the jurisdiction. In addition, the Department considered third party comments submitted by Mr. John G. McClendon. Conversations with Mr. Eric Veerkamp, the City's consultant, facilitated the review.

The adopted element and draft revisions address some of the statutory requirements described in the May 23, 2008 review. However, further revisions are still needed for the element to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must still include a completed land inventory, analysis of governmental constraints and programmatic commitments to address identified needs. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

For your information, Government Code Section 65589.7 requires water and sewer providers to establish specific procedures and grant priority water and sewer service to developments with units affordable to lower-income households. This statute also requires local governments to immediately deliver the housing element to water and sewer providers. The Department recommends including a cover memo describing the City's housing element, including its housing needs and share of the regional housing need.

Mr. Ralph Velez
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The Department would be happy to arrange a meeting in either Calexico or Sacramento to provide any assistance needed to facilitate your efforts to bring the element into compliance. If you have any questions or would like assistance, please contact Mario Angel, of our staff, at (916) 445-3485.

Sincerely,

A handwritten signature in black ink, appearing to read "Cathy E. Creswell". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Cathy E. Creswell
Deputy Director

Enclosure

APPENDIX

CITY OF CALEXICO

The following changes would bring the Calexico's housing element into compliance with Article 10.6 of the Government Code. The pertinent Government Code is cited for each recommended change.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, please refer to the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* http://www.hcd.ca.gov/hpd/housing_element2/index.php, the Department's publication, *Housing Element Questions and Answers (Qs & As)*, and the Government Code addressing State housing element law.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Sites Inventory and Analysis

The element was not revised to fully address the findings in the previous review (see finding A-3 [enclosed]). As a result, the following revisions are still required:

Sphere of Influence: While the element was revised to include some information on vacant sites in the City's sphere of influence (page 71-73), it does not provide an adequate analysis demonstrating the appropriateness of these sites to accommodate a portion of the City's remaining regional need. For example, the element continues to lack a description of density, development standards and design requirements for sites in the sphere of influence. The element should include a schedule of annexations commensurate with Calexico's remaining need within the planning period and describe the proposed and existing annexation process, including, at least:

- consistency with Imperial County LAFOC policies, including the City of Calexico Service Area Plan- Section 2- Phasing-Projects planning report;
- actions to pre-zoning prior to annexation;
- the anticipated housing capacity allowed by each site; and
- a timeline to complete annexation.

In addition, the element must contain programs committing the City to initiate annexations for residential development to occur within the planning period and/or where annexations are occurring, the element should include a description of timing and capacity.

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Realistic Capacity. The element now indicates (page 72) capacity is based on the lowest allowable density within the General Plan and allowed units per net acre of land. However, the element must still provide an adequate analysis demonstrating the realistic capacity based on the existing zoning and development standards. The element must include a description of the methodology used to estimate the realistic capacity indicating the cumulative impact of land-use controls and site improvement requirements. To fully address this requirement, please see the findings in the previous review (see finding A-3). Additional information and sample analyses are available in the *Building Blocks* section on Analysis of Sites and Zoning at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php.

Sites with Zoning for a Variety of Housing Types

Emergency Shelters: The element was revised to indicate emergency shelters are currently treated as group homes and are allowed in all residential zones but are not limited to six or fewer beds (page 45). The element should clarify how zoning for group homes specifically address emergency shelters given the very different nature of these types of housing or facilities. The City should revise the zoning ordinance to explicitly define emergency shelters. In addition, to comply with SB 2, the element should identify the zone (pursuant to Program 4.0.e-4) where emergency shelters will be allowed without a conditional use permit (CUP) and evaluate and describe the adequacy of the zone to provide sufficient capacity for at least one new emergency shelter in the planning period. In addition, the element must demonstrate that proposed permit processing, development, and management standards encourage and facilitate the development of, or conversion to, emergency shelters. For additional information and assistance in addressing these requirements, refer to the Department's SB 2 memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels, including land-use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures (Section 65583(a)(5)).*

Land-Use Controls: The element was revised to include additional information on the RA zone (page 67); however, it does not fully address the finding in the previous review (see finding A-4). For example, the element should clarify the conditions and standards required to increase densities and evaluate these standards including the CUP requirement as a potential constraint. The element should include a description and analysis of the design review requirements (page 67) and implemented by Program 4.0.b. - 5 (page 109).

The element continues to require revision to address the following:

Density Bonus: The element was not revised to include an evaluation of compliance with statutory requirements of density bonus law (page 67). The element indicates density bonuses can only be applied to projects exceeding 20 units per acre up to a maximum of 30 units per acre. The City should be aware that it cannot limit where density bonus can be applied (Government Code Section 65915(g)).

- 3 -

Height limits: The element was revised to indicate height limits are two stories or 35 feet in all residential zones (page 68). However, the element does not include an analysis of the impact of these limitations on the ability to achieve maximum densities especially in culmination with other development controls in the RA and RC zones.

Parking standards: The element was revised to describe parking requirements for the City's residential zones (page 90) and now indicates multifamily dwellings in the RA zone require half of the spaces to be garaged. The element should evaluate the effect of this requirement on the ability to achieve maximum permitted densities and the cost and supply of housing.

Processing and Permit Procedures: The element was not revised to include a description and analysis of the typical review processes for both single- and multi-family units and analyze their impacts on the cost and supply of housing. In addition, the element was revised to include Program 4.0.b. - 5 to implement architectural design review processes for projects exceeding 20 units per acre up to 30 units per acre (page 109). The element must include a description of the City's design review standards, the role of design review within the City's development approval process, indicate whether objective written standards and guidelines exist to allow an applicant for a residential development permit to determine what is required, and analyze its impact upon housing affordability. Based on the outcomes of this analysis, the element may need to add programs to address the guidelines as a constraint.

Constraints on Housing for Persons with Disabilities: The element was revised to note the City allows reasonable accommodations through a procedure that streamlines the required permits and approvals (page 91). However, the element must provide a description of this process.

3. *An analysis of opportunities for energy conservation with respect to residential development (Section 65583(a)(8)).*

The element was not revised to indicate what the City will do to promote energy conservation or efficiency in residential development and planning (page 95-98). The element revised Program 4.0.d-2 (page 114) indicating the City will encourage developers to use a revised subdivision ordinance to employ energy conservation measures. However, the program does not describe how the revised ordinance will encourage energy conservation and includes no timeline on implementation. In addition, the City should consider programs and policies to address energy conservation in existing single-family and multi-family units. Additional information on potential policies and programs to address energy conservation objectives are available in the Green Building and Sustainability Resources bibliography at http://www.hcd.ca.gov/hpd/green_build.pdf and on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_conservation.phc.

B. Housing Programs

1. *Include a program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land-use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions (Section 65583(c)).*

As mentioned in the Department's previous review, the programs requiring a specific action for implementation should specify a specific date. Programs to be revised include, but are not limited to the following:

Program 4.0.b. – 1, 4, 14. Program 4.0.c – 1, 3, 4, 5, 6. Program 4.0.d – 1, 2, 3.
Program 4.0.e – 1, 2, 4, 4. Program 4.0.g – 1, 2, 5, 6: The program should include a specific timeline committing the City to specific actions early enough in the planning period to implement the program actions.

Farmworkers: The element indicates Calexico has a need to address the needs of farmworkers (page 42). The element notes it will amend its zoning code to comply with Health and Safety (H&S) Code Section 17021.5 relating to employee housing of six or fewer persons. The element also states the City zoning code complies with H&S Code Section 17021.6 allowing farmworker housing as a permitted use within the agricultural zone. However, the element does not include program actions to address the specific housing needs of farmworkers. The element could include programs to encourage and facilitate the development of housing for farmworkers by applying for or assist in the application of funds from the Joe Serna, Jr. Farmworker Housing Grant (JSJFWHG) Program. For program information, please refer to the Department's website at <http://www.hcd.ca.gov/fa/fwhg> and the Loan and Grant Program Directory at http://www.hcd.ca.gov/fa/LG_program_directory.pdf.

2. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in finding A1, the element continues to lack a complete sites inventory or analysis and therefore the adequacy of sites and zoning has not been established and the element still requires revision.

The element does not demonstrate how the City will accommodate the shortfall of capacity (page 73). Specifically, programs must be included in the element to make sites available in accordance with subdivision (h) of 65583.2 for 10 percent of the remaining lower-income housing need, with sites zoned to permit owner-occupied and rental multifamily uses by-right during the planning period, including permitting at least 16 units per site, at a minimum density of 20 units per acre and accommodating at least 50 percent of the remaining need for lower-income households on sites designated for only residential uses. These programs also must commit to a specific amount of land to be available with appropriate land-use designations and zoning by a date certain early in the planning period.

Program 4.0.b. - 10 (Page 110): The element was not revised to include a timeline to complete annexation. The program must include a specific timeline committing the City to specific actions early enough in the planning period such that annexation and development could occur (see finding A1).

Program 4.0.e. - 6 (Page 116): A program was added indicating the zoning code will be revised in accordance with SB 2. The element indicates emergency shelters are considered group homes and allowed by-right in residential zones. The revised ordinance should explicitly define emergency shelters and clarify how they are allowed, including any specific development or management standards. The City may refer to the SB 2 technical assistance paper (page 11) for information on management standards. The program should identify at least one zone where emergency shelters are permit by-right to comply with statutory changes and should be revised to complete this action within one year of adoption of the housing element (Section 65583(a)(4)). For additional information and assistance in addressing these requirements, please refer to the Department's SB 2 memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

3. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(o)(3)).*

As noted in finding A2, the element requires a more detailed analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to strengthen or add programs and address and remove or mitigate any identified constraints.

Program 4.0.e-3 (page 115): The program notes the City will amend the reasonable accommodation ordinance to specify the level of review and approval required by type of request. The City currently has a procedure that streamlines the required permits and approvals (page 91) to provide reasonable accommodation in zoning and land-use; however, a reasonable accommodation procedure is a unique exception process to zoning and land-use regulation, separate from a variance or conditional use process. As a result, the program should clarify the City will establish a reasonable accommodation procedure separate from the variance process. For a sample ordinance and program, please see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_disabilities.php.

C. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort (Section 65583(c)(6)(B)).

The element was revised to describe the City conducted public hearings to solicit input on housing needs and includes Appendix B listing the organizations contacted for input (page 4). However, the element continues to require revision to demonstrate how the City made a diligent effort to encourage the public participation of lower- and moderate-income households in the development of the housing element. In addition, the element does not describe the effectiveness of the City's participation efforts. The element should also generally describe types of comments received and how they were incorporated into the housing element, including policies and programs. For additional information, refer to the *Building Blocks* website at http://www.hcd.ca.gov/hpd/housing_element2/GS_publicparticipation.php.

LEIBOLD McCLENDON & MANN

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October 22, 2008

JOHN G. McCLENDON
john@CEQA.com

VIA OVERNITE EXPRESS

CITY OF CALEXICO

% Calexico City Clerk's Office

CITY OF CALEXICO CITY HALL

608 Heber Avenue

Calexico, California 92231

Re: *City of Calexico General Plan Housing Element Update, 2008-2014*

TO: The City of Calexico and its Duly Constituted Legislative Body:

I am writing on behalf of persons in the City of Calexico ("City") who have asked me to call your attention to a serious problem. **Please consider the following to be notice pursuant to subdivision (d) of Government Code section 65009, specifying deficiencies in the General Plan for the City.** As explained below, the final "fourth revision" Housing Element to the City's General Plan is a sham that in no way complies with State housing element law (Article 10.6 of the Government Code).

In accordance with Government Code section 65585(b), by letter dated May 23, 2008, Cathy E. Creswell, the Deputy Director of the California Department of Housing and Community Development ("HCD") informed the City Manager that the City's Draft Housing Element Update did not comply with State housing element law. (Tab 1.) The letter's Appendix adroitly zeroed in on the most peculiar aspect of the City's draft Housing Element:

"Calexico has a total regional housing need of 2,498 housing units, of which 1,020 units are for lower-income households. To address this need, the element relies on vacant sites within the City in Table 2.2-15 and vacant sites in the City's sphere of influence (Table 2.2-16). The element only identifies a potential for 55 units in the R-1 zone and 70 units in the higher density zones within the City. The remainder of the capacity is identified within the sphere of influence. To demonstrate the adequacy of sites within the City and within the sphere of influence to accommodate the City's share of the regional housing need, the element must be revised to include more detailed analyses particularly to demonstrate the appropriateness of sites within the sphere of influence." (Emphasis in original.)

The month after the City Manager received Director Creswell's letter, staff produced and released a "Final Draft" Housing Element. On July 15, 2008, the City Council adopted the Final Housing Element upon the City Manager's recommendation; thereafter, on July 29, 2008, it was submitted to HCD for review and findings thereon.

**1. The Housing Element Ignores Hundreds of Acres
of Residentially-Zoned Vacant Land Within the City**

In response to HCD's comments on the Draft Housing Element, City staff made *no* changes to Table 2.2-15 that lists the 125 units that could be built within the City, but merely added, as Appendix H, a map depicting the vacant parcels that could accommodate the 125 units. However, what the Final Housing Element studiously avoids disclosing is the fact that the Land Use Element of the City's General Plan currently designates the two largest vacant parcels within the City for medium and high density residential development. (Tab 2.) Figure LU-4 of the General Plan depicts the 232-acre Calexico International Center ("CIC") property and the 150-acre Scaroni property as numbers 4 and 5, respectively. (*Id.*, at p. 2-14.) As shown on Figure LU-1 and the 2007 General Plan Land Use Map, approximately one-third of the CIC property is designated MDR-Medium Density Residential (5.1-12 units/acre) and HDR-High Density Residential (12-20 units/acre), and all but a small corner of the Scaroni property is designated MDR-Medium Density Residential. (*Id.*, at p. 2-9; Tab 3.)

This disconnect between the City's Land Use Element and Housing Element violates a fundamental requirement of general plans: *internal consistency*. "In construing the provisions of [Article 5 of the PZL], the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." (Government Code § 65300.5.) Discussing this legislative intent, the Governor's Office of Planning and Research (OPR) cautions in its *State of California General Plan Guidelines (2003)*¹ that,

"The concept of internal consistency holds that no policy conflicts can exist, either textual or diagrammatic, between the components of an otherwise complete and adequate general plan. . . . The internal consistency requirement has five dimensions. . .

* * *

Without consistency in all five of these areas, the general plan cannot effectively serve as a clear guide to future development. . . . findings of

¹ (http://www.opr.ca.gov/planning/publications/General_Plan_Guidelines_2003.pdf)

consistency of subordinate land use decisions such as rezonings and subdivisions will be difficult to make . . . inconsistencies in the general plan can expose the jurisdiction to expensive and lengthy litigation.”

(*Id.*, at pp. 12-13.) Given that the City’s General Plan is little more than a year old,² why would City staff want to completely omit from both Table 2.2-15 and Appendix H of the Housing Element any reference to the City’s two largest repositories of vacant land available to meet the City’s current Regional Housing Needs Allocation (RHNA) for 2006-2014? Why would the new Housing Element completely overlook two residential parcels totaling almost 400 acres that, between them, could accommodate virtually all of the City’s RHNA within City limits?

The answer can be found within the pages of two Draft Environmental Impact Reports (EIRs). On March 24, 2008, the City released the Draft EIR [State Clearinghouse No. 2007031043] for a project called “Calexico Mega Park.” (Tab 4.) This EIR describes a proposal to develop a commercial and retail use complex on the 150-acre Scaroni property over a ten-year period. (*Id.*, Executive Summary.) As proposed, the Calexico Mega Park would amend the General Plan to eliminate the development of *any* housing on the Scaroni property.³

Similarly, on September 23, 2008, the City released the Draft EIR [State Clearinghouse No. 2007031092] for a project called “111 Calexico Place Specific Plan.” (Tab 5.) This EIR describes a proposal for the 232-acre CIC property,

“to develop a 459,621 square foot casino facility complex, including a 93,880 square foot casino, 400 hotel rooms, 389,000 square feet of retail space, 131,500 square feet of restaurant space, 395,000 square feet of office space, 340,000 square feet of office tech space and a 20,800 square foot police/fire station in five phases over a period of eleven years.”

(*Id.*, Executive Summary.) This project too would amend the General Plan to eliminate the development of any Medium and High Density housing throughout the property.

² The City’s new General Plan was adopted by the City Council by Resolution 07-83 on May 1, 2007.

³ Ironically, the “Existing General Plan Alternative” in Section 5 of the Calexico Mega Park Draft EIR actually considers, and summarily dismisses, the development of hundreds of multi-family residential units on the Scaroni property!

2. City Staff Is Attempting to Skirt Government Code § 65863

To those familiar with State housing law, it is obvious *why* City staff would avoid any reference to the two largest repositories of vacant land designated for medium and high density residential development within the City. Staff is attempting to “prewire” the City’s new Housing Element to eliminate a potentially fatal issue for the Calexico Mega Park and 111 Calexico Place once those projects come before the City’s decision-makers. In 2002, the Legislature added Government Code section 65863 to the State Planning and Zoning Law; it has since become known as the “No-Net-Loss In Density Law.” (Govt. Code § 65582.1(i).) Subdivision (a) of section 65863 commands every city and county to “ensure that its inventory or programs of adequate sites pursuant to [specific provisions of the Housing Element law] can accommodate its share of the regional housing need pursuant to Section 65584, throughout the planning period.” In turn, subdivision (b) of section 65863 requires cities and counties to “make [] written findings supported by substantial evidence” that (1) “the reduction is consistent with the adopted general plan, including the housing element,” and (2) that “[t]he remaining sites identified in the housing element are adequate to accommodate the jurisdiction’s share of the regional housing need pursuant to Section 65584” of the Housing Element law.

Consequently, by eliminating any reference to the Scaroni and CIC properties in the Housing Element—and pushing all but 125 housing units outside the City’s jurisdictional boundaries—the Housing Element will be “prewired” for making the above two mandatory findings, despite the fact that the approval of the two proposed massive commercial developments will require amending the General Plan to eliminate hundreds of acres of MDR and HDR land.

3. The Housing Element Perpetrates a Fraud on HCD

However, without question the biggest problem inherent in the new Housing Element is its brazen attempt to perpetrate a fraud on HCD. In her letter commenting on the Draft Housing Element [Tab 1], HCD’s Creswell noted that,

“[v]irtually all of the City’s housing need is proposed to be accommodated on sites outside the current City boundary but within the sphere of influence. However, the element does not commit the City to any specific action to annex the necessary land and make it available for development.”

Consequently, she made two entirely reasonable requests. First, that the Housing Element “be revised to include more detailed analyses particularly to demonstrate the appropriateness of

sites within the sphere of influence.” Second, to include within the Housing Element “a schedule of annexations commensurate with Calexico’s need within the planning period and describe the proposed and existing planning process.” (*Id.*)

In what can only be described as outright dishonesty, City staff responded to Director Creswell’s comment by adding the following statements at pages 70-71 of the Final Housing Element:

“Proposed projects within the Sphere of Influence are all suitable for development, are unencumbered by constraints, and are of the same topography as the remainder of the City, (i.e., flat and level). The City has negotiated with each project proponent for annexation to the City in a rational fashion, based on a combination of factors, including the developers’ readiness to proceed, the payment of funds to the City for necessary services, and the City’s priorities. Annexations are anticipated to occur generally in the order in which they were received by the City; however, scheduling of annexations (and subsequent construction activity) is subject to many factors that are out of the City’s control.

Project annexation and subsequent development will be monitored by the City so that phasing of projects coincides with the City’s installation of public infrastructure, including water and wastewater utilities, ensuring that adequate public facilities are in place prior to development, in compliance with infrastructure phasing as per the Calexico Service Area Plan-Section 2.”

Obviously, the person(s) inserting the foregoing hoped that HCD would not actually *look* at Section 2 of the City’s May 31, 2006 *Service Area Plan*. (*Tab 6.*) Because if HCD does, it will be in for a shock: the *Service Area Plan* identifies only the 153-acre, 535 single family homes “El Portal” project as being likely to develop by 2011. (*Id.*, at p. 2-2.) Three projects are estimated to build out by 2016; however, the largest of those, the 703-acre, 1,904 single and multi-family home CM Ranch project, has since withdrawn its annexation application in a dispute with the City, and the other two projects comprise only 250 single-family and 352 condominium units. (*Id.*; *Tab 7.*) The 500-acre, 1,200 single family and 936 town home “Los Lagos” project is projected not to be built out until 2021; more important, it is currently in financial straits, and its LAFCO application has lapsed with no indication it will be renewed.

Virtually all of the supposed remaining vacant sites outside City boundaries that the Housing Element identifies as viable for satisfying the City's current RHNA lie along the so-called "Jasper [Road] Corridor." However, due to the fact there is no water and wastewater infrastructure within miles of those properties, the *Service Area Plan* projects that the infrastructure needed to serve those properties will not be available until "Phase III, Within 20 Years," and consequently build out of those properties will not occur until 2026. (Tab 7, pp. 2-2; 10-5 -10-6; 11-7 - 11-8.)

About this time last year the City was attempting to jump-start development of the infrastructure needed to serve projects along the Jasper Corridor by forming a Benefit Assessment District [Tab 8], and earlier this year it was being reported that the court-appointed receiver for the large Rancho Diamante project had agreed to participate in the formation of that District. (Tab 9.) Presently, however, that is no longer the case. What with the other vacant parcels along the Jasper Corridor being foreclosed upon, the formation of such a District is no longer tenable, and the City's credit rating is acknowledged to be in jeopardy. (Tab 10.)

4. The City Needs to Involve All Its Citizens in This Process

Finally, there was simply no excuse for City staff to ignore the admonishment of Government Code section 65351 that, "[d]uring the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens . . . through public hearings and any other means the planning agency deems appropriate." Census data shows that the City is 95.3% Hispanic or Latino, with over half its residents foreign born and with 94.1 percent of its residents speaking a language other than English at home. (Tab 11.) Nevertheless, when it came time to notice the public hearing on the new Housing Element, City staff provided that notice only in English [Tab 12] – despite the fact that staff provided similar public notices both before and after the public hearing on the Housing Element in both English and Spanish. (Tab 13.)

I would urge you to contact HCD and apologize for City's staff's attempt to deceive HCD. Assure HCD that the City intends to revise its Housing Element and will direct City staff to prepare and release for review, by all of the citizens of Calexico, a fourth revision Housing Element that accurately and honestly reflects the City's May 1, 2007, General Plan Land Use element and 2006 *Service Area Plan*, the complete lack of water and wastewater capacity and infrastructure to serve vacant lands outside the City's jurisdictional boundaries, and the fact that such infrastructure has simply no chance of being developed in time to allow any of those properties to accommodate the City's 2,498-unit RHNA for 2008-2014.

I look forward with hope that the City will act in good faith to comply with its important obligations under the State Housing Element law.

Very truly yours,

LEIBOLD McCLENDON & MANN, P.C.

A handwritten signature in black ink, appearing to read "John G. McClendon", written in a cursive style.

By: John G. McClendon

cc: Cathy E. Creswell, HCD Deputy Director
% Mario Angel (w/ attachments)